

AMENDED IN SENATE AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 1, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 2153**

**Introduced by Assembly Member Cristina Garcia  
(Coauthor: Assembly Member Santiago)**

February 17, 2016

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An act to amend, repeal, and add Section 25190 of, to add ~~Section Sections 25215.5.5 and 124166~~ to, and to repeal and add Article 10.5 (commencing with Section 25215) of Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2153, as amended, Cristina Garcia. The Lead-Acid Battery Recycling Act of 2016.

Existing law prohibits a person from disposing, or attempting to dispose, of a lead-acid battery at a solid waste facility or on or in any land, surface waters, watercourses, or marine waters, but authorizes a person to dispose of a lead-acid battery at certain locations. Existing law requires a dealer to accept, when offered at the point of transfer, a lead-acid battery from a consumer in exchange for the new lead-acid battery purchased by that consumer from the dealer.

This bill, the Lead-Acid Battery Recycling Act of 2016, would, as of January 1, 2017, revise these provisions to require a dealer to accept, at the point of transfer, ~~a specified types of used lead-acid battery of the same type and size that is sold by the dealer, without regard to the brand or original dealer of the used lead-acid battery,~~ *batteries* and would prohibit the dealer from charging any fee to accept ~~a these used lead-acid battery.~~ *batteries*. The bill would require a dealer to collect a refundable ~~deposit~~ *deposit, as specified,* for each new lead-acid battery ~~of these types~~ from a person who purchases the battery and who does not simultaneously provide a used lead-acid battery of the same size and type, and would require the dealer to refund the deposit to the person if, within 45 days of the sale of that lead-acid battery, the person presents a used lead-acid battery of the same type and size. The bill would require a dealer to post a specified notice ~~or include specified information on the purchaser's receipt for one of these lead-acid batteries~~ with regard to these provisions. The bill would allow the dealer to keep any lead-acid battery refundable deposit that is not properly claimed within 45 days after the date of sale of the new lead-acid battery.

~~This bill, on and after April 1, 2017, would require a dealer to charge a consumer or business, at the time of sale, a California battery fee in the amount of \$1 to be imposed on a person, except as specified, for each replacement lead-acid battery purchased.~~ *purchased that is of one of the specified types.* The bill would authorize the dealer to retain 1 ½% of the fee as reimbursement for any costs associated with the collection of the fee and ~~would require the dealer to remit the remainder to the State Board of Equalization for deposit into the Lead-Acid Battery Cleanup Fund, which would be created by this bill.~~ *Equalization.*

~~This bill, on and after April 1, 2017, would require a manufacturer of lead-acid batteries to remit to the State Board of Equalization a manufacturer battery fee of \$1 to be imposed on a manufacturer of lead-acid batteries for each lead-acid battery it sells at retail to a person in California, or that it sells to a dealer, wholesaler, distributor, or other person for retail sale in California, for deposit into the Lead-Acid Battery Cleanup Fund. The bill would require manufacturers to temporarily suspend and resume remitting this manufacturer battery fee if the balance of the Lead-Acid Battery Cleanup Fund reaches certain amounts. The bill would permanently terminate the obligation of all manufacturers to pay a manufacturer battery fee under certain circumstances.~~ *The*

The bill would provide for certain credits against liability for a person who remits manufacturer battery fees if that person is held responsible by any court, regional board, agency, or any other authority for certain hazardous substance violations. The bill would authorize the state to bring an action against a person who has remitted manufacturer battery fees for the payment or reimbursement of any moneys to the state or a regional board for specified response actions only if the state has a reasonable basis to believe that the person would ultimately be held responsible for amounts in excess of the ~~amount~~ amounts the person has remitted in manufacturer battery fees that ~~is~~ are not already committed to the person's liability. The bill would allow certain wholesalers of lead-acid batteries to elect to be considered manufacturers for these purposes, as specified.

~~This bill would~~ Of moneys collected pursuant to this act, the bill would require the board to retain moneys necessary for the payment of refunds and to reimburse the board for expenses in the collection of the California battery fee and the manufacturer battery fee. The bill would require that the remaining moneys be deposited into the Lead-Acid Battery Cleanup Fund, which would be created by the bill, and would continuously appropriate those moneys ~~in the Lead-Acid Battery Cleanup Fund~~ to the Department of Toxic Substances Control and the State Board of Equalization, as applicable, for purposes of response actions at sites investigated due to concern of lead release from a lead-acid battery recycling facility, areas of the state that have been contaminated by the production, recycling, or improper disposal of lead-acid batteries, administration of the fund, and reimbursement of certain ~~General Fund~~ loans for lead cleanup. The bill would make the reimbursement money available for further loans, as specified. The bill would require an unspecified amount of moneys be loaned from the General Fund or a special fund to the board for implementing the collection of the California battery fee and the manufacturer battery fee and would require that the loan be repaid before October 1, 2017. The bill would require the department, before seeking to recover moneys spent on the above-described response actions from a person who has remitted manufacturer battery fees, to first ~~draw from and deplete the fund and exhaust~~ vigorously pursue efforts to recover any moneys from the owner or operator of the site where the response action occurred, or the site identified as the source of release to which the response action was directed. If a person from whom the department recovers such moneys receives a favorable judgment against a person who has remitted

manufacturer battery fees, the bill would require that the judgment be reduced by the amount remitted as manufacturer battery fees.

This bill would require, on and after July 1, 2017, a manufacturer to place a ~~uniform widely understood~~ recycling symbol, *as specified, and other information* on all replacement lead-acid batteries sold in California.

This bill would require the department to report annually to the Governor and the Legislature on the status of the Lead-Acid Battery Cleanup Fund and on the department's progress in implementing these provisions.

~~This bill would require the department to notify manufacturers of replacement lead-acid batteries of the bill's requirements, as specified, and would require those manufacturers to notify distributors, wholesalers, and dealers of the lead-acid batteries it manufactures of the bill's requirements, as specified.~~

A violation of the existing lead-acid battery management provisions is punishable as a misdemeanor.

The bill would instead authorize the department to impose civil administrative penalties on any person who is in violation of these provisions and would require the penalty money to be deposited into the Lead-Acid Battery Cleanup Fund.

*Under existing law, known as the Childhood Lead Poisoning Prevention Act of 1991, the department is required to establish procedures for environmental abatement and followup designed to reduce the incidence of excessive childhood lead exposure in California.*

*The bill would require, by April 1, 2017, the Office of Environmental Health Hazard Assessment to convene a Lead Advisory Committee, with a prescribed membership, to review and advise regarding policies and procedures to reduce childhood lead poisoning in the state. The bill would require the committee to publish a recommended regulatory agenda that would identify sources of lead that affect children and ensure that regulatory standards are protective of the health of the children of this state, as specified.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25190 of the Health and Safety Code is amended to read:

25190. (a) Except as otherwise provided in Sections 25185.6, 25189.5, 25189.6, 25189.7, and 25191, any person who violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is, upon conviction, guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for up to six months in a county jail or by both that fine and imprisonment.

(b) If the conviction is for a second or subsequent violation, the person shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 20, or 24 months. The court shall also impose upon the person a fine of not less than five thousand dollars (\$5,000) or more than twenty-five thousand dollars (\$25,000).

(c) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 2. Section 25190 is added to the Health and Safety Code, to read:

25190. (a) Except as otherwise provided in Sections 25185.6, 25189.5, 25189.6, 25189.7, 25191, and 25215.7, any person who violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is, upon conviction, guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for up to six months in a county jail or by both that fine and imprisonment.

(b) If the conviction is for a second or subsequent violation, the person shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 20, or 24 months. The court shall also impose upon the person a fine of not less than five thousand dollars (\$5,000) or more than twenty-five thousand dollars (\$25,000).

(c) This section shall become operative on January 1, 2017.

SEC. 3. Article 10.5 (commencing with Section 25215) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 10.5. The Lead-Acid Battery Recycling Act of 2016

25215. This article shall be known, and may be cited, as the Lead-Acid Battery Recycling Act of 2016.

25215.1. For purposes of this article, the following definitions shall apply:

(a) “Board” means State Board of Equalization.

~~(a)~~

(b) “Business” means any person, as defined in subdivision (j), that is not a natural person.

~~(b)~~

(c) “California battery fee” means the fee imposed pursuant to Section 25215.25.

~~(e) “Consumer” means every natural person who purchases a lead-acid battery at retail in California for use or consumption.~~

(d) “Dealer” means every person who ~~sells at~~ engages in the retail sale of replacement lead-acid batteries directly to persons in California. “Dealer” includes a manufacturer of a new lead-acid battery that sells at retail that lead-acid battery directly to a person through any means, including, but not limited to, a transaction conducted through a sales outlet, catalog, or Internet Web site or any other similar electronic means.

(e) (1) “Lead-acid battery” means any battery weighing over five kilograms that is primarily composed of both lead and sulfuric acid, whether sulfuric acid is in liquid, solid, or gel state, with a capacity of six volts or more that is used for any of the following purposes:

~~(1)~~

(2) As a starting battery that is designed to deliver a high burst of energy to an internal combustion engine until it starts.

~~(2)~~

(3) As a motive power battery that is designed to provide the source of power for propulsion or operation of a vehicle, including a boat, watercraft.

~~(3)~~

1 (4) As a stationary storage or standby battery that is designed  
2 to be used in systems where the battery acts as either electrical  
3 storage for electricity generation equipment or a source of  
4 emergency power, or otherwise serves as a backup in case of failure  
5 or interruption in the flow of power from the primary source.

6 ~~(4)~~

7 (5) As a source of auxiliary power to support the electrical  
8 systems in a ~~vehicle~~; *vehicle, as defined in Section 670 of the*  
9 *Vehicle Code, including a vehicle as defined in Section 36000 of*  
10 *the Vehicle Code, or an aircraft.*

11 (6) *To use with or contained within a medical device, as defined*  
12 *in the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section*  
13 *321(h), as that definition may be amended.*

14 (f) “Lead-acid battery recycling facility” means any site at which  
15 lead-acid batteries are or have been disassembled for the purpose  
16 of making components available for reclamation to produce  
17 elemental lead or lead alloys or at which lead-acid batteries or their  
18 components, or both, are or have been reclaimed to produce  
19 elemental lead or lead alloys.

20 (g) “Manufacturer” means either of the following:

21 (1) The person who manufactures the lead-acid battery and who  
22 sells, offers for sale, or distributes the lead-acid battery in the state,  
23 unless subdivision (b) of Section 25215.35 applies to the lead-acid  
24 battery, in which case the wholesaler shall be deemed the  
25 manufacturer, except for purposes of Section 25215.65. *If an entity*  
26 *engages a third party to manufacture lead-acid batteries on its*  
27 *behalf, that entity shall be deemed the manufacturer of those*  
28 *lead-acid batteries.*

29 (2) If there is no person described in paragraph (1) that is subject  
30 to the jurisdiction of the state, the manufacturer is the person who  
31 imports the lead-acid battery into the state for sale or distribution.

32 (h) “Manufacturer battery fee” means the fee imposed pursuant  
33 to Section 25215.35.

34 (i) “Owner or operator” has the same meaning given in Section  
35 9601(20) of Title 42 of the United States Code.

36 (j) “Person” means ~~a natural person~~; *an individual*, trust, firm,  
37 joint stock company, *business concern*, corporation, ~~company~~;  
38 *including, but not limited to, a government corporation,*  
39 *partnership, limited liability company, or association. “Person”*  
40 *also includes any city, county, city and county, district, commission,*

1 *the state, or any department, agency, or political subdivision of*  
2 *any of those, interstate body, and the United States and its agencies*  
3 *and instrumentalities to the extent permitted by law.*

4 (k) “Remedial action” has the same meaning as in Section  
5 25322.

6 (l) “Removal” has the same meaning as in Section 25323.

7 (m) “Replacement lead-acid battery” means a new lead-acid  
8 battery that is sold at retail subsequent to the original sale or lease  
9 of the equipment or vehicle in which the lead-acid battery is  
10 intended to be used. “Replacement lead-acid battery” does not  
11 include a spent, discarded, refurbished, *reconditioned*, *rebuilt*, or  
12 reused lead-acid battery.

13 (n) “Response action” has the same meaning as in Section  
14 25323.3.

15 (o) (1) A ~~“retail” sale, “retail sale” or a sale “at retail,”~~ means  
16 ~~the sale of a new lead-acid battery to a person in California who~~  
17 ~~is the ultimate user either at a California store or via the Internet,~~  
18 ~~telephone, mail order, or otherwise, including, but not limited to,~~  
19 ~~the sale of a new lead-acid battery in connection with vehicle~~  
20 ~~service or repair. “Retail” sale does not include sales to a~~  
21 ~~wholesaler or dealer, to a person for incorporation into new~~  
22 ~~equipment for subsequent resale, or replacement of a lead-acid~~  
23 ~~battery pursuant to a vehicle manufacturer’s warranty or a service~~  
24 ~~contract described under Section 12800 of the Insurance Code.~~  
25 *“sale at retail” has the same meaning as defined in Section 6007*  
26 *of the Revenue and Taxation Code.*

27 (2) “Retail sale” does not include any of the following:

28 (A) *The sale of a battery for which a California battery fee has*  
29 *previously been paid.*

30 (B) *The sale of a replacement lead-acid battery that is*  
31 *temporarily stored or used in California for the sole purpose of*  
32 *preparing the replacement lead-acid battery for use thereafter*  
33 *solely outside of the state and that is subsequently transported*  
34 *outside the state and thereafter used solely outside of the state.*

35 (C) *The sale of a battery for incorporation into new equipment*  
36 *for subsequent resale.*

37 (D) *The replacement of a lead-acid battery pursuant to a*  
38 *warranty or a vehicle service contract described under Section*  
39 *12800 of the Insurance Code.*



1 (p) “Used lead-acid battery” means a lead-acid battery no longer  
2 fully capable of providing the power for which it was designed or  
3 that a ~~consumer or other user~~ *person* no longer wants for any other  
4 reason.

5 (q) “Wholesaler” means any person who purchases a lead-acid  
6 battery from a manufacturer for the purpose of selling the lead-acid  
7 battery to a dealer, high-volume customer, or to a person for  
8 incorporation into new equipment for resale.

9 25215.15. (a) Except as provided in subdivision (b), no person  
10 shall dispose, or attempt to dispose, of a lead-acid battery at a solid  
11 waste facility or on or in any land, surface waters, watercourses,  
12 or marine waters.

13 (b) A person may dispose of a lead-acid battery at any of the  
14 following locations:

15 (1) A facility, including a facility located at a solid waste facility,  
16 established and operated for the purpose of recycling, or providing  
17 for the eventual recycling of, lead-acid batteries.

18 (2) A dealer pursuant to Section 25215.2.

19 25215.2. (a) A dealer shall accept from persons at the point  
20 of transfer a used lead-acid battery ~~of the same type and size that~~  
21 ~~is sold by the dealer, without regard to the brand or original dealer~~  
22 ~~of the used lead-acid battery, a type listed in paragraph (1), (2),~~  
23 ~~or (4) of subdivision (e) of Section 25215.1,~~ but shall not be  
24 required to accept from any person more than six used lead-acid  
25 batteries per day. A dealer shall not charge any fee to receive a  
26 used lead-acid battery.

27 (b) (1) A dealer shall charge to each person who purchases a  
28 replacement lead-acid battery *of a type listed in paragraph (1),*  
29 *(2), or (4) of subdivision (e) of Section 25215.1* and who does not  
30 simultaneously provide the dealer with a used lead-acid battery of  
31 the same type and size a refundable deposit for each such battery  
32 purchased. The dealer shall display the amount of the deposit  
33 *separately* on the receipt provided to the ~~purchaser as a separate~~  
34 ~~line item.~~ *purchaser.* The dealer shall refund the deposit to that  
35 person if, within 45 days of the sale of the replacement lead-acid  
36 battery, the person presents to the dealer a used lead-acid battery  
37 of the same type and size. A dealer may require the person to  
38 provide a receipt documenting the payment of the deposit before  
39 refunding any deposit. A dealer may keep any lead-acid battery  
40 deposit moneys that are not properly claimed within 45 days after

1 the date of sale of the replacement ~~lead-acid battery~~. *lead-acid*  
2 *battery, not including any sales tax reimbursement charged to the*  
3 *consumer. Sales tax reimbursement charged to the consumer on*  
4 *the amount of the deposit shall be remitted to the board.*

5 (2) (A) *The refundable deposit required under paragraph (1)*  
6 *shall be a flat rate, in accordance with subparagraph (B), and*  
7 *shall not be a percentage of the purchase price of the lead-acid*  
8 *battery.*

9 (B) (i) *The refundable deposit shall be no less than fifteen*  
10 *dollars (\$15).*

11 (ii) *For a lead-acid battery that weighs 50 pounds or less, the*  
12 *refundable deposit shall be no more than forty dollars (\$40).*

13 (iii) *For a lead-acid battery that weighs more than 50 pounds*  
14 *but 100 pounds or less, the refundable deposit shall be more than*  
15 *forty dollars (\$40) but no more than eighty dollars (\$80).*

16 (iv) *For a lead-acid battery that weighs more than 100 pounds,*  
17 *the refundable deposit shall be more than eighty dollars (\$80) but*  
18 *no more than one hundred dollars (\$100).*

19 (c) A dealer shall post a written notice that is clearly visible in  
20 the public sales area of the ~~establishment and that contains~~  
21 *establishment, or include on the purchaser's receipt, the following*  
22 *language:*

23  
24 ~~It is unlawful to dispose of a motor vehicle battery or other lead-acid battery~~  
25 ~~in a landfill or any unauthorized site.~~

26  
27 ~~Recycle all used batteries.~~

28 ~~This dealer is required by law to accept used lead-acid batteries of the same~~  
29 ~~type and size sold by the dealer, but is not required to accept more than six~~  
30 ~~lead-acid batteries from any person per day.~~

31  
32 ~~When a replacement lead-acid battery is purchased, this~~ *This dealer is required*  
33 *by law to charge a nonrefundable \$1 California battery fee for each lead-acid*  
34 *battery.*

35  
36 ~~An additional~~ *A refundable deposit will be charged for each replacement*  
37 ~~lead-acid battery purchased unless a purchased. A credit of the same amount~~  
38 ~~as the applicable deposit will be issued if a used lead-acid battery of the same~~  
39 ~~type and size is returned at the time of purchase. The deposit will be refunded~~

1 by the dealer if a used lead-acid battery of the same type and size is returned  
2 within 45

3 *If a customer does not have a lead-acid battery at the time of purchase, the*  
4 *customer has up to 45 days of purchase of the replacement lead-acid battery.*  
5 *Upon return of a lead-acid battery for the refund of this deposit, the dealer may*  
6 *require the consumer to show the receipt for the purchase of the lead-acid*  
7 *battery on which the deposit was paid: to bring in a used lead-acid battery*  
8 *with a receipt to claim the deposit.*  
9

10 (d) ~~This section~~ Subdivision (c) does not apply to any of the  
11 following: a

12 (1) A person whose ordinary course of business does not include  
13 the sale of lead-acid batteries.

14 (2) A person that does not sell lead-acid batteries directly to  
15 consumers, such as over-the-counter, but instead removes  
16 nonfunctional or damaged batteries and installs new lead-acid  
17 batteries as a part of an automotive repair dealer service.

18 (3) A business that removes lead-acid batteries and installs new  
19 lead-acid batteries as a part of roadside services. "Roadside  
20 services," for purposes of this paragraph, means the services  
21 performed upon a motor vehicle for the purpose of transporting  
22 the vehicle or to permit it to be operated under its own power, by  
23 or on behalf of a motor club holding a certificate of authority  
24 pursuant to Chapter 2 (commencing with Section 12160) of Part  
25 5 of Division 2 of the Insurance Code.

26 (e) Except as authorized by this article, a dealer shall not collect  
27 a refundable deposit for a lead-acid battery from a person.

28 25215.25. (a) (1) ~~A consumer or business that purchases from~~  
29 ~~a dealer a replacement lead-acid battery shall pay~~ On and after  
30 April 1, 2017, a California battery fee of one dollar (\$1) shall be  
31 imposed on a person, not including a business, for each  
32 replacement lead-acid battery ~~purchased~~ of a type listed in  
33 paragraph (1), (2), or (4) of subdivision (e) of Section 25215.1  
34 purchased from a dealer.

35 (2) The dealer shall charge a ~~consumer or business person~~ the  
36 amount of the California battery fee as a charge that is separate  
37 from, and not included in, any other fee, charge, or other amount  
38 paid by the ~~consumer or business~~ person.

39 (3) The dealer shall collect the California battery fee at the time  
40 of sale and may retain 1 ½ percent of the fee as reimbursement for

1 any costs associated with the collection of the fee. ~~The dealer shall~~  
2 ~~remit the remainder to the State Board of Equalization on a~~  
3 ~~quarterly schedule pursuant to Section 25215.45. All moneys~~  
4 ~~remitted to the State Board of Equalization from the California~~  
5 ~~battery fee shall be deposited into the Lead-Acid Battery Cleanup~~  
6 ~~Fund. The remainder of the California battery fee collected by the~~  
7 ~~dealer shall be paid to the board in a manner and form prescribed~~  
8 ~~by the board and at the time the return is required to be filed, as~~  
9 ~~specified in Section 25215.47.~~

10 (4) *All moneys collected by a dealer pursuant to this section*  
11 *that are not properly remitted to the board pursuant to paragraph*  
12 *(3) shall be deemed to be a debt owed to the state by the dealer.*

13 (5) *A person who purchases a replacement lead-acid battery in*  
14 *this state is liable for the California battery fee until that fee has*  
15 *been paid to the board, except that payment to a dealer registered*  
16 *under this article is sufficient to relieve the person from further*  
17 *liability of the fee.*

18 (6) *All moneys remitted to the board pursuant to this subdivision*  
19 *shall be expended in accordance with Section 25215.5.*

20 (b) The California battery fee imposed pursuant to subdivision  
21 (a) shall be separately stated by the dealer on the invoice given to  
22 a consumer or business at the time of sale. Any other fee charged  
23 by the dealer related to the lead-acid battery purchase, including  
24 any deposit charged, credited, or both, pursuant to Section 25215.2,  
25 shall be identified separately from the California battery fee.

26 ~~25215.3. An advertisement or other printed promotional~~  
27 ~~material related to the sale of replacement lead-acid batteries shall~~  
28 ~~contain the following notice: "By law, a nonrefundable \$1~~  
29 ~~California battery fee is charged per replacement lead-acid battery~~  
30 ~~purchased, and an additional refundable deposit will be charged~~  
31 ~~unless a used lead-acid battery of the same type and size is returned~~  
32 ~~at the time of purchase. The deposit shall be refunded if a used~~  
33 ~~battery of the same type and size as that purchased is returned~~  
34 ~~within 45 days with a receipt from the purchase."~~

35 ~~25215.35. (a) Each manufacturer of lead-acid batteries shall~~  
36 ~~remit to the State Board of Equalization (1) On and after April 1,~~  
37 ~~2017, a manufacturer battery fee of one dollar (\$1) shall be imposed~~  
38 ~~on a manufacturer of lead-acid batteries for each lead-acid battery~~  
39 ~~it sells at retail to a person in California or that it sells to a dealer,~~  
40 ~~wholesaler, distributor, or other person for retail sale in California.~~

1 ~~The manufacturer shall remit the fees on a quarterly schedule~~  
2 ~~pursuant to Section 25215.45. All moneys remitted to the State~~  
3 ~~Board of Equalization from the manufacturer battery fee shall be~~  
4 ~~deposited into the Lead-Acid Battery Cleanup Fund.~~

5 *(2) The obligation to pay the manufacturer battery fee and the*  
6 *board's authority to collect the fee shall immediately be terminated*  
7 *as to all payors if either of the following occurs:*

8 *(A) The state files suit against any person that has remitted a*  
9 *manufacturer battery fee to recover moneys spent for purposes*  
10 *identified in paragraph (1) of subdivision (b) of Section 25215.5,*  
11 *except for a suit against an owner or operator, or legal successor*  
12 *to the owner or operator, of the site at which the moneys sought*  
13 *to be recovered were spent.*

14 *(B) The state issues an order to any person who has remitted a*  
15 *manufacturer battery fee that requires the recipient to take action*  
16 *to address conditions at or allegedly attributable to a lead-acid*  
17 *battery recycling facility or its operations, except for an order*  
18 *issued to a person who is the owner or operator, or legal successor*  
19 *to the owner or operator, of the site at which the action ordered*  
20 *would occur.*

21 ~~(b) (1) A~~*(A) On and after April 1, 2017, a wholesaler of a*  
22 *lead-acid battery who ships or arranges for the shipment of used*  
23 *lead-acid batteries to a lead-acid battery recycling facility may*  
24 *elect to be considered a manufacturer for purposes of subdivision*  
25 *(a) and Sections*~~25215.5~~ *25215.5, 25215.51, and 25215.55. To so*  
26 *elect, the wholesaler shall notify the manufacturer of the lead-acid*  
27 *battery from which*~~he or she~~ *the wholesaler purchased the*  
28 *lead-acid battery, the department, and the*~~State Board of~~  
29 ~~Equalization~~ *board of its intent to be considered a manufacturer*  
30 *for those purposes and shall remit a manufacturer battery fee for*  
31 *each lead-acid battery purchased from the notified manufacturer.*  
32 *The wholesaler shall register with the board pursuant to*  
33 *subdivision (b) of Section 25215.45 and provide at least 30 days'*  
34 *notice to the manufacturer, the department, and*~~State Board of~~  
35 ~~Equalization~~ *the board before the wholesaler is considered a*  
36 *manufacturer under subdivision (a).*~~A manufacturer who has been~~  
37 ~~notified by a wholesaler pursuant to this subdivision shall not be~~  
38 ~~subject to subdivision (a) for purposes of the lead-acid batteries~~  
39 ~~sold to the wholesaler. If a wholesaler under this subdivision only~~  
40 *remits a manufacturer battery fee for a portion of the*

1 manufacturer's lead-acid battery inventory sold in the state, the  
2 manufacturer shall remain responsible for remittance of the  
3 manufacturer battery fee for the remaining lead-acid batteries  
4 sold in the state. Multiple wholesalers may remit manufacturer  
5 battery fees for their sales of batteries from a single manufacturer.  
6 Regardless of the number of wholesalers paying manufacturer  
7 battery fees for sales of a manufacturer's batteries, the  
8 manufacturer shall remain responsible for manufacturer battery  
9 fees not paid by a wholesaler.

10 (B) A manufacturer shall not be required to pay the  
11 manufacturer battery fee that is to be paid by a wholesaler  
12 pursuant to this subdivision if both of the following conditions are  
13 met:

14 (i) The manufacturer has been notified by the wholesaler and  
15 the board of the wholesaler's election to be considered a  
16 manufacturer and the wholesaler's intent to remit the manufacturer  
17 battery fee for each lead-acid battery purchased from the notified  
18 manufacturer.

19 (ii) The manufacturer has registered with the board pursuant  
20 to subdivision (b) of Section 25215.45, and submits informational  
21 returns to the board in a manner and form to be determined by  
22 the board.

23 ~~(A)~~

24 (C) (i) A manufacturer otherwise exempt from subdivision (a)  
25 pursuant to this subdivision may voluntarily submit an additional  
26 manufacturer battery fee of one dollar (\$1) per lead-acid battery  
27 that is otherwise ~~covered~~ paid by a wholesaler. A manufacturer  
28 that voluntarily submits a manufacturer battery fee under this  
29 subparagraph shall be subject to Sections 25215.5 and 25215.55.

30 (ii) A voluntary manufacturer payment does not relieve a  
31 wholesaler from its responsibility to remit a manufacturer battery  
32 fee pursuant to this subdivision.

33 ~~(B)~~

34 (D) A manufacturer that submits a manufacturer battery fee  
35 pursuant to subparagraph ~~(A)~~ (C) shall be prohibited from imposing  
36 or passing on the voluntarily remitted fees to a wholesaler.

37 (2) A wholesaler that provides notice pursuant to paragraph (1)  
38 shall be considered a manufacturer for purposes of subdivision (a)  
39 and Sections 25215.5 and 25215.55 until 60 days after the  
40 wholesaler provides notice to the ~~State Board of Equalization,~~

board, the department, and the manufacturer of the lead-acid battery of the wholesaler's intention to no longer be considered a ~~manufacturer~~. *manufacturer. If the manufacturer of the lead-acid batteries for which the wholesaler elects to no longer pay a manufacturer battery fee has not registered with the board, the wholesaler shall continue to be considered a manufacturer until notified by the board that the manufacturer has registered with the board.*

(3) ~~The State Board of Equalization~~ board shall establish appropriate procedures for providing notifications pursuant to this subdivision.

(c) (1) *Manufacturer battery fees shall be paid to the board in a manner and form as prescribed by the board and at the time the return is required to be filed, as specified in Section 25215.47.*

~~25215.45. (a) The State Board of Equalization shall establish a mechanism by which the fees remitted pursuant to Sections 25215.25 and 25215.35 shall be due and payable quarterly on or before the 15th day of the month following each calendar quarter. The remitted moneys shall be deposited into the Lead-Acid Battery Cleanup Fund.~~

~~(b) The department and the State Board of Equalization shall be reimbursed for the costs of collection, auditing, and administration of funds associated with the establishment and operation of the Lead-Acid Battery Cleanup Fund in an amount that shall not exceed 3 percent of the total annual revenue deposited in the fund for a fiscal year.~~

~~(c) (1) The State Board of Equalization, if it deems it necessary to ensure payment to, or facilitate the collection by, the state of the amount of the fees required to be remitted under this article, may require returns and payment of the amount of the fees for a yearly period. The State Board of Equalization may audit the returns submitted by a person who remits moneys to the Lead-Acid Battery Cleanup Fund pursuant to Section 25215.25 or 25215.35.~~

~~(2) On or before the 15th day of the month following each designated yearly period, a return for the preceding designated yearly period shall be filed with the State Board of Equalization in the form that the State Board of Equalization prescribes.~~

~~25215.45. (a) (1) Except as provided in paragraph (2), the lead-acid battery fees imposed pursuant to Sections 25215.25 and 25215.35 shall be collected by the board in accordance with the~~

1 *Fee Collection Procedures Law (Part 30 (commencing with Section*  
2 *55001) of Division 2 of the Revenue and Taxation Code). For the*  
3 *purposes of this section, the reference to “feepayer” shall include*  
4 *a dealer, manufacturer, importer, and wholesaler, including a*  
5 *wholesaler that makes an election pursuant to paragraph (1) of*  
6 *subdivision (b) of Section 25215.35, but shall not include a*  
7 *manufacturer that makes a voluntary payment pursuant to*  
8 *subparagraph (B) of paragraph (1) of subdivision (b) of Section*  
9 *25215.35 as to that voluntary payment.*

10 (2) *Notwithstanding the petition for redetermination and claim*  
11 *for refund provisions of the Fee Collection Procedures Law (Article*  
12 *3 (commencing with Section 55081) of Chapter 3 of, and Article*  
13 *1 (commencing with Section 55221) of Chapter 5 of, Part 30 of*  
14 *Division 2 of the Revenue and Taxation Code), the board shall not*  
15 *do either of the following:*

16 (A) *Accept or consider any petition for redetermination of fees*  
17 *determined under this article if the petition is founded upon the*  
18 *grounds that a battery is or is not a lead-acid battery, as defined*  
19 *in Section 25215.1. The board shall forward to the department*  
20 *any petition for redetermination that is based on those grounds.*

21 (B) *Accept or consider a claim for refund of fees paid pursuant*  
22 *to this article, if the claim for refund is founded upon the grounds*  
23 *that a battery is or is not a lead-acid battery, as defined in Section*  
24 *25215.1. The board shall forward to the department any claim for*  
25 *refund that is based on these grounds.*

26 (b) *The following persons shall register with the board:*

27 (1) *A dealer of lead-acid batteries in the state.*

28 (2) *A manufacturer of lead-acid batteries in the state, including*  
29 *a manufacturer that voluntarily pays a manufacturer battery fee,*  
30 *as provided in Section 25215.35.*

31 (3) *An importer of lead-acid batteries into the state.*

32 (4) *A wholesaler of lead-acid batteries in the state, including a*  
33 *wholesaler that elects to be considered a manufacturer, as provided*  
34 *in Section 25215.35.*

35 25215.47. (a) *The return required to be filed pursuant to*  
36 *Section 55040 of the Revenue and Taxation Code shall be prepared*  
37 *and filed by the person required to register with the board, in the*  
38 *form prescribed by the board, and shall contain the information*  
39 *the board deems necessary or appropriate for the proper*  
40 *administration of this article and the Fee Collection Procedures*



1 *Law. Except as provided in subdivision (b), the return shall be*  
2 *filed on or before the last day of the calendar month following the*  
3 *calendar quarter to which the return relates, together with a*  
4 *remittance payable to the board for the fee amount due for that*  
5 *period. Returns shall be authenticated in a form, or pursuant to*  
6 *methods, as may be prescribed by the board, including, but not*  
7 *limited to, electronic media.*

8 *(b) The board may require the payment of the fee and the filing*  
9 *of the returns for other than quarterly periods.*

10 25215.5. (a) ~~The Lead-Acid Battery Cleanup Fund is hereby~~  
11 ~~created in the State Treasury. Lead-acid battery fees collected~~  
12 ~~pursuant to this article shall be managed as follows:~~

13 *(1) The board shall retain moneys necessary for the payment*  
14 *of refunds and reimbursement of the board for expenses in the*  
15 *collection of the fees.*

16 *(2) The remaining moneys shall be deposited into the Lead-Acid*  
17 *Battery Cleanup Fund, which is hereby created in the State*  
18 *Treasury, and are hereby be continuously appropriated, without*  
19 *regard to fiscal year, to the department for purposes of the*  
20 *lead-acid battery activities specified in subdivision (b).*

21 (b) Moneys in the Lead-Acid Battery Cleanup Fund shall be  
22 continuously appropriated, without regard to fiscal year, solely to  
23 pay the costs expended for the following activities:

24 ~~(1) To the department for investigation, Investigation, site~~  
25 ~~evaluation, cleanup, abatement, remedy, removal, monitoring, or~~  
26 ~~other response actions at any site in California investigated because~~  
27 ~~of concerns about lead releases from a lead-acid battery recycling~~  
28 ~~facility, including, but not limited to, areas at or near the former~~  
29 ~~Exide lead-acid battery recycling facility in Vernon, California.~~  
30 ~~area of the state that has been contaminated by the production,~~  
31 ~~recycling, or improper disposal of lead-acid batteries.~~

32 ~~(2) To the department and the State Board of Equalization for~~  
33 ~~administration Administration of the Lead-Acid Battery Cleanup~~  
34 ~~Fund, as provided in subdivision (b) of Section 25215.45. Fund.~~

35 ~~(3) To the department for repayment Repayment of a loan~~  
36 ~~pursuant to described in Section 25215.6. 25215.6 that was made~~  
37 ~~before the effective date of the act which added this section, or~~  
38 ~~any other loan made for purposes set forth in paragraph (1).~~

39 (c) (1) Before seeking to recover moneys spent for purposes  
40 identified in paragraph (1) of subdivision (b) from a person who

1 has remitted a manufacturer battery fee pursuant to Section  
2 25215.35, other than a person who is the owner or operator, or  
3 legal successor to the owner or operator, of a site at which the  
4 activity occurred, the department shall ~~do both of the following:~~

5 ~~(A) Draw from and deplete the funds in the Lead-Acid Battery~~  
6 ~~Cleanup Fund.~~

7 ~~(B) Exhaust efforts to recover any moneys expended for an~~  
8 ~~activity described in paragraph (1) of subdivision (b) from the~~  
9 ~~owner or operator, or legal successor to the owner or operator, of~~  
10 ~~the site at which the activity occurred, or the site that is identified~~  
11 ~~as the source of the release to which the activity was directed.~~  
12 ~~vigorously pursue efforts to recover any moneys expended for an~~  
13 ~~activity described in paragraph (1) of subdivision (b) from the~~  
14 ~~owner or operator or legal successor to the owner or operator of~~  
15 ~~the site at which the activity occurred, or the site that is identified~~  
16 ~~as the source of release to which the activity was directed, until~~  
17 ~~the earlier of either of the following: If~~

18 ~~(A) The issuance of a final unappealable legal judgment against~~  
19 ~~the owner or operator or legal successor to the owner or operator.~~

20 ~~(B) Both of the following conditions have been met:~~

21 ~~(i) At least 36 months have passed since the department filed~~  
22 ~~suit against the owner or operator or legal successor to the owner~~  
23 ~~or operator of the site at which the activity occurred or of the site~~  
24 ~~that is identified as the source of the release to which the activity~~  
25 ~~was directed.~~

26 ~~(ii) Seventy-one months have passed since the first expenditure~~  
27 ~~of moneys from the Lead-Acid Battery Cleanup Fund on remedial~~  
28 ~~actions at the site.~~

29 (2) If a person from whom the department recovered moneys  
30 under ~~this subparagraph~~ paragraph (1) receives a favorable  
31 judgment against a second person who has remitted a manufacturer  
32 battery fee in an action relating to those response activities, the  
33 judgment shall be reduced by the amount the second person has  
34 already remitted to the Lead-Acid ~~battery~~ Battery Cleanup Fund  
35 pursuant to Section 25215.35 that is not previously committed to  
36 other payor liabilities.

37 ~~(2)~~

38 (3) Nothing in this subdivision shall be construed to limit or  
39 otherwise affect any cause of action that may exist under any law  
40 that the state may bring against the owner or operator, or legal

1 successor to the owner or operator, of a site at which any activity  
2 described in paragraph (1) of subdivision (b) occurred.

3 (d) Any funds expended from the Lead-Acid Battery Cleanup  
4 Fund that are subsequently recovered from any person pursuant  
5 to subdivision (c) shall be deposited into the Lead-Acid Battery  
6 Cleanup Fund.

7 (e) Moneys from the Lead-Acid Battery Cleanup Fund shall not  
8 be used to implement Article 14 (commencing with Section 25251)  
9 with respect to lead-acid batteries or to loan moneys to any other  
10 program. ~~As long as~~ *Provided that* the national recycling rate for  
11 lead in lead-acid batteries, determined by the methodology accepted  
12 by the United State Environmental Protection Agency and used  
13 in the Battery Council International's National Recycling Rate  
14 Study, exceeds ~~—~~ 90 percent, a lead-acid battery shall not be  
15 considered for inclusion on a list of products established under  
16 Section 25252 or be otherwise regulated under Article 14  
17 (commencing with Section ~~25251~~); 25251) *until after the*  
18 *completion of the fifth Priority Product Work Plan established*  
19 *pursuant to Section 69503.4 of Title 22 of the California Code of*  
20 *Regulations*. Nothing in this subdivision shall preclude a study of  
21 the impacts and benefits of the manufacture and recycling of  
22 lead-acid batteries from being conducted as a pilot project pursuant  
23 to the department's Community Protection and Hazardous Waste  
24 Reduction Initiative.

25 (f) The department shall report annually to the Governor and  
26 to the Legislature on the status of the Lead-Acid Battery Cleanup  
27 Fund and on the department's progress to implement this article,  
28 including, but not limited to, the sites at which actions were  
29 performed using moneys from the fund, *the status of cleanup at*  
30 *those sites, including total anticipated costs of cleanup at those*  
31 *sites*, the balance of the fund, the amount of fees remitted to the  
32 fund, the amount spent by the fund and the purposes for which  
33 those amounts were spent, the amounts reimbursed to the  
34 ~~department and the State Board of Equalization~~ *board* pursuant to  
35 ~~subdivision (b) of Section 25215.45, paragraph (1) of subdivision~~  
36 *(a)*, the amounts collected by the department pursuant to  
37 subdivision (c), and any other information requested by the  
38 Governor or the Legislature.

39 25215.51. (a) *If, as of October 1 of any calendar year, the*  
40 *balance in the Lead-Acid Battery Cleanup Fund exceeds one*

1 *hundred million dollars (\$100,000,000), the board shall, no later*  
2 *than October 31 of that year, notify each manufacturer to suspend*  
3 *remitting a manufacturer battery fee pursuant to this article*  
4 *commencing January 1 of the following year, until the*  
5 *manufacturer receives a notice from the board pursuant to*  
6 *subdivision (b). The board shall also provide notice to the*  
7 *department of the suspension of manufacturer battery fee remittal.*

8 *(b) If, as of October 1 of a calendar year in which manufacturers*  
9 *are not remitting a manufacturer battery fee and the balance of*  
10 *the Lead-Acid Battery Cleanup Fund is less than thirty million*  
11 *dollars (\$30,000,000), the board shall, no later than October 31*  
12 *of the same year, notify in writing each manufacturer that is*  
13 *required to remit a manufacturer battery fee to resume remitting*  
14 *the fee beginning on January 1 of the following year. The board*  
15 *shall also provide notice to the department of the resumption of*  
16 *the fee remittal.*

17 25215.55. (a) (1) A person who has remitted a manufacturer  
18 battery fee and who is held responsible by any court, regional  
19 board, agency, or any other authority, under the  
20 Carpenter-Presley-Tanner Hazardous Substance Account Act  
21 (commencing with Section 25300) or any other law, for the  
22 payment or reimbursement of any moneys to the state or a regional  
23 board *or any other person by or on behalf of a public entity* for  
24 any activity listed in paragraph (1) of subdivision (b) of Section  
25 25215.5 shall have its responsibility for that payment or  
26 reimbursement reduced by the amount that person remitted  
27 pursuant to Section 25215.35 that has not otherwise been  
28 committed to the payor's liability and by the amount recovered by  
29 the state pursuant to subparagraph (B) of paragraph (1) of  
30 subdivision (c) of Section 25215.5.

31 (2) The state may bring an action against a person who has  
32 remitted a manufacturer battery fee for the payment or  
33 reimbursement of any moneys to the state or a regional board for  
34 any of the activities listed in paragraph (1) of subdivision (b) of  
35 Section 25215.5 only if the state has a reasonable basis to believe  
36 that the person ultimately would be held responsible for amounts  
37 in excess of the amount of manufacturer battery fees the person  
38 has remitted to the Lead-Acid Battery Cleanup Fund that is not  
39 already committed to the payor's liability.

1 (3) Before bringing any action against a person pursuant to  
2 paragraph (2), the state shall notify the person of the state's intent  
3 to bring the action and meet and confer with that person to attempt  
4 to reach an agreement by which the person voluntarily resolves  
5 the state's claim.

6 (4) Nothing in this subdivision shall be construed to create a  
7 private cause of action against a manufacturer, affect any cause of  
8 action that may exist under other law, or reduce the amount of  
9 damages for which a manufacturer is held liable in any civil action  
10 for personal injury or wrongful death.

11 (5) Nothing in this subdivision shall be construed to limit or  
12 otherwise affect a claim the state may assert against an owner or  
13 operator, or legal successor of an owner or operator, of a site at  
14 which any activity described in paragraph (1) of subdivision (b)  
15 of Section 25215.5 occurred.

16 (b) Notwithstanding any other law, not including a person who  
17 is or was an owner or operator of a site subject to paragraph (1)  
18 of subdivision (b) of Section 25215.5, an administrative order shall  
19 not be issued or judicial relief sought to compel any person who  
20 has remitted a manufacturer battery fee to take any activity  
21 described in paragraph (1) of subdivision (b) of Section 25215.5  
22 at that site unless all of the following conditions are met:

23 ~~(1) The Lead-Acid Battery Cleanup Fund has been exhausted~~  
24 ~~by the state.~~

25 ~~(2)~~

26 (1) Any activities undertaken by any party at the site have been  
27 inadequate to fully address concerns to which the activities  
28 described in paragraph (1) of subdivision (b) of Section 25215.5  
29 would be directed.

30 ~~(3)~~

31 (2) The state has a reasonable basis to believe that, if state or  
32 private funds are used to undertake the activities described in  
33 paragraph (1) of subdivision (b) of Section 25215.5 and recovery  
34 of those funds is sought from the person against whom the  
35 administrative order was issued, that person ultimately would be  
36 held responsible for amounts in excess of the amount of  
37 manufacturer battery fees the person has remitted to the Lead-Acid  
38 Battery Cleanup Fund that is not already committed to the payor's  
39 liability.

40 (3) *One of the following:*

1 (A) *The state has issued an administrative order against the*  
2 *owner or operator or legal successor to the owner or operator of*  
3 *the site, and obtained a final nonappealable judgment enforcing*  
4 *that order against the owner or operator or legal successor to the*  
5 *owner or operator, and the owner or operator or legal successor*  
6 *to the owner or operator has not complied with the order.*

7 (B) *Both of the following conditions have been met:*

8 (i) *At least 36 months have passed since the department issued*  
9 *an administrative order against the owner or operator or legal*  
10 *successor to the owner or operator of the site at which the activity*  
11 *occurred or of the site that is identified as the source of the release*  
12 *to which the activity was directed.*

13 (ii) *Seventy-one months have passed since the first expenditure*  
14 *of moneys from the Lead-Acid Battery Cleanup Fund or remedial*  
15 *action took place at the site.*

16 25215.6. If the state loans money from the General Fund to  
17 the Toxic Substances Control Account for the cleanup of lead  
18 contamination in the state, the following shall apply:

19 (a) Money from the Lead-Acid Battery Cleanup Fund may be  
20 used towards repaying the loan.

21 (b) Any moneys designated as repayment of the loan shall be  
22 deposited to that loan, but shall be available to be loaned to the  
23 Toxic Substances Control Account for the purposes of cleaning  
24 up areas of the state that have been contaminated with lead by the  
25 production, handling, storage, reclamation, or improper disposal  
26 of lead-acid batteries.

27 25215.65. On and after July 1, 2017, a manufacturer shall place  
28 ~~a uniform widely understood~~ recycling symbol *consistent with the*  
29 *requirements of Section 103(b)(1) of the Federal Mercury*  
30 *Containing and Rechargeable Battery Management Act, Pub. L.*  
31 *No. 104-142 (1996) (42 U.S.C. 14301(b)(1)) and either “Pb” or*  
32 *the words “lead,” “return,” and “recycle” on all replacement*  
33 *lead-acid batteries sold in California.*

34 25215.7. (a) The department may impose civil administrative  
35 penalties not to exceed one thousand dollars (\$1,000) per day on  
36 any person who is in violation of any provision of this article.

37 (b) *The department shall provide notice of the alleged violations*  
38 *to any person alleged to be in violation of any provision of this*  
39 *article no less than 60 days before the issuance of any*  
40 *administrative penalty pursuant to subdivision (a). If the person*

1 *corrects the alleged violation before the issuance of an*  
2 *administrative penalty, the department shall not issue the*  
3 *administrative penalty.*

4 ~~(b)~~

5 (c) In assessing or reviewing the amount of a civil penalty  
6 imposed pursuant to subdivision (a) for a violation of this article,  
7 the department or the court shall consider all of the following:

8 (1) The nature and extent of the violation.

9 (2) The number and severity of the violation or violations.

10 (3) The economic effect of the penalty on the violator.

11 (4) Whether the violator took good faith measures to comply  
12 with this article and the period of time over which these measures  
13 were taken.

14 (5) The willfulness of the violator's misconduct.

15 (6) The deterrent effect that the imposition of the penalty would  
16 have on both the violator and the regulated community.

17 (7) Any other factor that justice may require.

18 ~~(e)~~

19 (d) The department shall deposit all penalties collected pursuant  
20 to this section into the Lead-Acid Battery Cleanup Fund.

21 25215.72. \_\_\_\_\_ dollars (\$\_\_\_\_\_) shall be loaned from the  
22 General Fund or a special fund to the board for implementing the  
23 collection of the California battery fee and the manufacturer fee  
24 and shall be repaid from the proceeds of the collection of fees  
25 pursuant to this article no later than October 1, 2017.

26 25215.74. (a) The board may prescribe, adopt, and enforce  
27 regulations relating to the administration and enforcement of this  
28 article, including, but not limited to, registration, collections,  
29 reporting, notices for manufacturers, notices for wholesalers  
30 regarding elections pursuant to paragraph (1) of subdivision (b)  
31 of Section 25215.35, refunds, and appeals.

32 (b) The board may prescribe, adopt, and enforce any emergency  
33 regulations as necessary to implement this article. Any emergency  
34 regulation prescribed, adopted, or enforced pursuant to this article  
35 shall be adopted in accordance with Chapter 3.5 (commencing  
36 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
37 Government Code, and, for purposes of this chapter, including  
38 Section 11349.6 of the Government Code, the adoption of the  
39 regulation is an emergency and shall be considered by the Office  
40 of Administrative Law as necessary for the immediate preservation

1 of the public peace, health and safety, and general welfare.  
2 Emergency regulations adopted pursuant to this subdivision shall  
3 remain in effect until regulations have been adopted pursuant to  
4 subdivision (a).

5 25215.75. This article shall become operative on January 1,  
6 2017.

7 SEC. 4. Section 25215.5.5 is added to Article 10.5  
8 (commencing with Section 25215) of Chapter 6.5 of Division 20  
9 of the Health and Safety Code, as added by Chapter 209 of the  
10 Statutes of 1988, to read:

11 25215.5.5. This article shall remain in effect only until January  
12 1, 2017, and as of that date is repealed, unless a later enacted  
13 statute, that is enacted before January 1, 2017, deletes or extends  
14 that date.

15 SEC. 5. Section 124166 is added to the Health and Safety Code,  
16 to read:

17 124166. (a) On or before April 1, 2017, the Office of  
18 Environmental Health Hazard Assessment shall convene a Lead  
19 Advisory Committee to review and advise regarding policies and  
20 procedures to reduce childhood lead poisoning in the state. Until  
21 April 1, 2019, the committee shall meet quarterly and, by that date,  
22 shall publish a recommended regulatory agenda for the state that  
23 would identify sources of lead that affect children and ensure that  
24 regulatory standards are protective of the health of the children  
25 of this state. After April 1, 2019, the committee shall meet twice a  
26 year.

27 (b) Membership of the committee shall be as follows:

28 (1) One member shall be a lead exposure assessment expert.

29 (2) One member shall be a biostatistician or epidemiology expert.

30 (3) One member shall be a pediatrician.

31 (4) One member shall be an occupational health expert.

32 (5) One member shall be a lead remediation expert.

33 (6) Two members shall be representatives from environmental  
34 justice organizations that work on lead contamination.

35 (7) Two members shall be local government representatives  
36 from lead poisoning prevention programs.

37 (8) One member shall be a representative from the program  
38 established pursuant to this article.

39 (9) One member shall be a representative of industries that use  
40 lead in producing their products.



1     (10) One member shall be a representative of the lead recycling  
2 industry.

3     (11) One member shall be a representative of the civil aviation  
4 industry.

5     (12) One member shall be a representative of industries not  
6 otherwise represented on the committee that are emitters of  
7 significant quantities of lead into the air of the state.

8     (c) (1) In its recommended regulatory agenda, the committee  
9 shall do all of the following:

10    (A) Evaluate of each of the following:

11      (i) The program established pursuant to this article.

12      (ii) Each county's childhood lead testing programs.

13      (iii) The drinking water program described in Section 116271.

14      (iv) Each county's healthy homes program.

15    (B) Address remedial action strategies that should be considered  
16 by the Department of Toxic Substances Control when approving  
17 remedial action plans.

18    (C) Advise state and local entities on how to better use  
19 biomonitoring data that the state receives to identify opportunities  
20 to prevent lead poisoning.

21    (D) Review existing regulatory provisions for the protection  
22 and health of children in California and recommend any  
23 appropriate changes to any regulations that have not been revised  
24 on or after January 1, 2011.

25    (E) Provide advice on how to align the state's lead regulatory  
26 framework with the Center for Disease Control and Prevention's  
27 most recent findings on the toxicity of lead to children.

28    (F) Identify key policies, regulations, and protocols for state  
29 agencies to follow to better protect California's children from lead  
30 exposure.

31    (d) Each member of the committee shall receive reasonable and  
32 necessary traveling expenses and meal allowances as approved  
33 by the Office of Environmental Health Hazard Assessment for each  
34 day spent in actual attendance at, or in traveling to and from,  
35 meetings of the committee.

36     ~~SEC. 5.~~

37     ~~SEC. 6. (a) The Department of Toxic Substances Control,~~  
38 ~~within 30 days after the effective date of this act, shall notify all~~  
39 ~~manufacturers of replacement lead-acid batteries sold in this state~~  
40 ~~of the requirements set forth in Article 10.5 (commencing with~~

1 ~~Section 25215) of Chapter 6.5 of Division 20 of the Health and~~  
2 ~~Safety Code, as it will read on and after January 1, 2017.~~

3 ~~(b) Each manufacturer of lead-acid batteries sold in this state,~~  
4 ~~within 30 days of receiving notice pursuant to subdivision (a),~~  
5 ~~state shall notify the distributors, wholesalers, and dealers of the~~  
6 ~~lead-acid batteries it manufactures of the requirements set forth in~~  
7 ~~Article 10.5 (commencing with Section 25215) of Chapter 6.5 of~~  
8 ~~Division 20 of the Health and Safety Code, as it will read on and~~  
9 ~~after January 1, 2017.~~

10 ~~SEC. 6.~~

11 *SEC. 7.* This act is an urgency statute necessary for the  
12 immediate preservation of the public peace, health, or safety within  
13 the meaning of Article IV of the Constitution and shall go into  
14 immediate effect. The facts constituting the necessity are:

15 In order to increase the cleanup of toxic materials and to prevent  
16 additional toxic pollution at the earliest possible time, it is  
17 necessary that this act take effect immediately.